

Recording Requested For
Petroleum Waste Inc.
When Recorded Mail To:
Department of Health Services
Toxic Substances Control Division
Property Evaluation Unit
744 P Street
Sacramento, CA 95814

028758

COVENANT AND AGREEMENT

Permitting

800-5641 PAGE 384

A 14.00 ORS
A 1.00 MDEP
R8992 A 03/19/84 15.00 CA:

1984 MAR 19 AM 10:55

RECORDED BY
GALE S. ENSTAD

This Covenant and Agreement ("Covenant") is made as of the 16th day of March 1983 by Petroleum Waste, Inc., a California corporation, ("Covenantor") who is the owner of record of certain property situated in Kern County, State of California described in Exhibits "A", "B", "C", "D" and "E" attached hereto and incorporated herein by this reference (the "Property") and by the California Department of Health Services.

ARTICLE I
RECITALS

1.01 Objective. A portion of the Property depicted as Exhibit "C" attached hereto and incorporated herein by this reference, has been approved by the California Department of Health Services for use, and will be used, as a hazardous waste disposal site, Hazardous Waste Facility Permit No. CAD 980675276. Covenantor desires and intends that in order to protect the present or future public health and safety the Property shall be used in such a manner as to avoid potential harm to persons or property which may result from hazardous wastes which may be deposited on that portion of the Property described in Exhibit "C" by Occupants (as hereinafter defined) of the Property. The Covenantor further desires and intends that those portions of the Property depicted as Exhibits "A", "B", "D" and "E" shall not be used for disposal of hazardous wastes. The Covenantor further desires and intends that post-closure use of the property on or in which hazardous waste remains after closure shall never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment.

1984 MAR 19

system, or the function of the facility's monitoring systems, unless the Owner or Operator can demonstrate to the Department either in the post-closure plan or by petition, that the disturbance:

- (1) Is necessary to the proposed use of the Property, and will not increase the potential hazard to human health or the environment; or
- (2) Is necessary to reduce a threat to human health or the environment.

1.02 Statement Regarding Hazard. This Covenant is not, and shall not be construed as, a statement or declaration that any existing or potential health, environmental or other hazard exists or will exist on the Property.

1.03 Provisions to Run with the Land. This Covenant sets forth, for the mutual benefit of the Property, the Owners and Occupants thereof and the People of the State of California, protective provisions, covenants, restrictions, and conditions (collectively referred to as "Restrictions"), upon and subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered and/or conveyed. Each and all of the Restrictions are for the mutual benefit of the Property, of every portion thereof, of any present and future Improvements (as hereinafter defined) thereon, and of the present and future Owners thereof. Each and all of the Restrictions shall run with the land, shall inure to the benefit of and pass with each and every portion of the Property, and shall apply to and bind the respective successors in interest thereof. Each and all of the

Restrictions are imposed upon each portion of the Property as mutual equitable servitudes in favor of the Property and every portion thereof.

Each and all of the Restrictions are imposed pursuant to Section 25202.5 of the Health and Safety Code and run with the land pursuant to Section 25202.5.

1.04 Concurrence of Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed, by their purchase, leasing or possession of such Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees and lessees of such owners, heirs, successors, and assignees that the Restrictions as herein established must be adhered to for the benefit of future Owners and Occupants and that their interest in the Property shall be subject to the Restrictions contained herein.

1.05 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated by reference in each and all deeds and leases of any portion of the Property, pursuant to Sections 1468, 1469 and 1470 of the California Civil Code.

ARTICLE II DEFINITIONS

2.01 Department. "Department" shall mean the California State Department of Health Services and shall include its successor agencies, if any.

2.02. Improvements. "Improvements" shall mean all buildings, roads, drive-ways, and paved parking areas, constructed or placed upon any portion of the Property.

2.03. Occupants. "Occupants" shall mean Owners and those persons entitled by ownership, leasehold interest or other legal relationship to the exclusive right to occupy any portion of the Property.

2.04. Owner. "Owner" shall mean the Covenantor or its successors in interest, including heirs and assigns, who hold title to all or any portion of the Property.

ARTICLE III
DEVELOPMENT, USE AND
CONVEYANCE OF THE PROPERTY

3.01. Restrictions on Use. During operation of the hazardous waste facility, Covenantor promises to restrict use of those portions of the Property depicted in Exhibits "A" and "B" to non-hazardous waste disposal and those portions of the Property depicted in Exhibit "C" to hazardous waste disposal. Those portions of the Property depicted as Exhibits "A", "B", "D" and "E" shall not be used for hazardous waste disposal. Those portions of the Property depicted as Exhibits "D" and "E" shall not be used for agricultural, residential, hospital or other medical care, daycare or school use.

Upon closure of the hazardous waste facility the following restrictions shall be in effect:

(1) Upon any portion of the Property, no building, filling, grading, excavating, drilling, or mining shall occur without the prior written approval of the Department.

(2) Upon that portion of the Property depicted as Exhibit "C" no new

(Facility Property)

-5-

use shall occur except with a written variance granted by the Department as set forth in Paragraph 4.01.

(3) Upon those portions of the Property depicted as Exhibits "A", "B", "D" and "E", no agricultural, residential, hospital or other medical care, daycare or school use shall occur except with a written variance granted by the Department as set forth in Paragraph 4.01. No post-closure use of the Property on or in which hazardous waste remains after closure shall be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the Owner or Operator can demonstrate to the Department either in the post-closure plan or by petition, that the disturbance:

- (1) Is necessary to the proposed use of the Property, and will not increase the potential hazard to human health or the environment; or
- (2) Is necessary to reduce a threat to human health or the environment.

3.02. Conveyance of Property. The Owner or Owners shall provide 30-day advance notice to the Department of any sale, lease, or other conveyance of the Property or an interest in the Property to a third person. The Department shall not, by reason of this Covenant, have authority to approve, disapprove or otherwise affect any sale, lease, or other conveyance of the Property except as otherwise provided by law or by reason of this Covenant.

3.03. Enforcement. Failure of any Owner or Occupant to comply with any of the requirements as set forth in Paragraph 3.01 above shall be grounds for the Department, by reason of the Covenant, to have the authority to require

that the Owner or Occupant modify or remove any Improvements constructed in violation of that paragraph. This covenant shall also be enforceable by the Department pursuant to Section 25202.5 of the Health and Safety Code.

3.04. Notice in Lease. All owners and occupants shall execute a written instrument which shall accompany all lease, sublease or rental agreements relating to the Property. The instrument shall contain the following statement:

The land described herein contains hazardous waste. Such condition renders the land and the owner, lessee, or other possessor of the land subject to requirements, restrictions, provisions, and liabilities contained in Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. This statement is not a declaration that a hazard exists.

ARTICLE IV VARIANCE AND TERMINATION

4.01. Variance. Any Owner or Occupant of the Property or any portion thereof may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with Section 25202.6 of the California Health and Safety Code.

4.02. Termination. Any Owner or Occupant of the Property or a portion thereof may apply to the Department for a termination of the Restrictions as they apply to all or any portion of the Property. Such application shall be made in accordance with Section 25202.6 of the California Health and Safety Code.

4.03. Term. Unless terminated in accordance with Paragraph 4.02 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

ARTICLE V
GENERAL PROVISIONS

5.01. No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication or offer of a gift or dedication of the Property or any portion thereof to the general public or for any purpose whatsoever.

5.02. Notices. Whenever any person shall desire to give or serve any notice, demand or other communication with respect to this Covenant, each such notice, demand or other communication shall be in writing and shall be deemed effective (i) when delivered if personally delivered to the person being served or to an officer of a corporate party being served, or official of a government agency being served, or (ii) three (3) business days after deposit in the mail if mailed by United States mail, postage prepaid:

To Petroleum Waste, Inc.:

Petroleum Waste, Inc.

P.O. Box 3366

Bakersfield, CA 93385

To California Department of Health Services:

Director, California Department of Health Services

State of California

Toxic Substances Control Division

Program Management Section

Property Evaluation Unit

714/744 P Street

Sacramento, CA 95814

(Facility Property)

-8-

5.03. Partial Invalidity. If any portion of the Restrictions set forth herein or terms hereof is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.04. Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of this Covenant.

5.05. Recordation. This instrument shall be executed by all Owners of the Property and by the Director, California Department of Health Services. This instrument shall be recorded by the Owners in the County of Kern within ten (10) days of the date of execution.

(Facility Property)

-9-

EXECUTED BY:

COVENANTEE

CALIFORNIA DEPARTMENT OF
HEALTH SERVICES

DATE: February 16, 1984

By Richard Wilcoxon
Richard Wilcoxon, Chief
Toxic Substances Control Division

COVENANTOR

Petroleum Waste, Inc.

DATE: March 16, 1984

By William A. Wheeler
William A. Wheeler, President

STATE OF _____

STATE OF CALIFORNIA,

COUNTY OF KERN

ON MARCH 16, 1984,

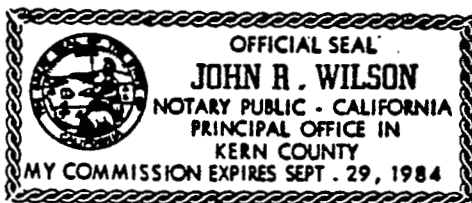
before me, the undersigned, a Notary Public in and for the said State, personally appeared WILLIAM A. WHEELER, known to me to be the

President, and _____, known to me

to be the _____ Secretary of PETROLEUM WASTE
INC

the Corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument, on behalf of the Corporation herein named, and acknowledged to me that such Corporation executed the within Instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.



John R. Wilson
Notary Public in and for said State.

-10-

A PORTION OF SECTION 16, TOWNSHIP 29 SOUTH, RANGE 22 EAST, M.D.B. & M., KERN COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

EXHIBIT "A"

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 16, THENCE WESTERLY ALONG THE NORTH LINE OF SAID SECTION 16, 2000 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE NORTHEAST WHOSE RADIUS POINT IS THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTHEASTERLY ALONG SAID CURVE TO THE EAST LINE OF SAID SECTION 16; THENCE NORTHERLY ALONG SAID EAST LINE, 2000 FEET TO THE TRUE POINT OF BEGINNING, EXCEPTING THEREFROM THOSE PORTIONS DESCRIBED IN EXHIBIT "D".

EXHIBIT "B"

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 16, THENCE EASTERLY ALONG THE SOUTH LINE OF SAID SECTION 16, 2000 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTHERLY ALONG A LINE PARALLEL TO THE EAST LINE OF THE WEST HALF OF SAID SECTION 16, 1320 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE SOUTHWEST WHOSE RADIUS IS 2000 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE TO THE EAST LINE OF SAID WEST HALF; THENCE SOUTHERLY ALONG SAID EAST LINE, TO THE SOUTH LINE OF SAID SECTION 16; THENCE EASTERLY ALONG SAID SOUTH LINE TO THE TRUE POINT OF BEGINNING, EXCEPTING THEREFROM THOSE PORTIONS DESCRIBED IN EXHIBIT "D".

EXHIBIT "C"

ALL OF THE EAST HALF OF SAID SECTION 16, EXCEPTING THEREFROM THOSE PORTIONS DESCRIBED IN EXHIBIT "A" & "B" AND "E".

EXHIBIT "D"

THOSE PORTIONS OF THE PROPERTY DESCRIBED IN EXHIBITS "A" AND "B" ABOVE FOR WHICH RIGHTS HAVE BEEN RESERVED, SUCH AS PIPELINE ROUTES, DRAINAGE CHANNELS AND DRILLING SITES.

-11-

EXHIBIT "E"

THOSE PORTIONS OF THE PROPERTY DESCRIBED IN EXHIBIT "C"
ABOVE FOR WHICH RIGHTS HAVE BEEN RESERVED, SUCH AS PIPELINE
ROUTES, DRAINAGE CHANNELS AND DRILLING SITES.

OUR OFFICE HAS BEEN ADVISED THAT THE
PROPERTY DESCRIBED IN EXHIBIT "C"
IS NOT SUBJECT TO ANY RIGHTS RESERVED
BY THE STATE OF TEXAS.

